

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

WISCONSIN CARRY, INC.,
DAVID BERNSON, and
FRANK HANNAN ROCK,

Plaintiffs,

vs.

Case No. 10-C-0009

JAMES DOYLE, in his official
Capacity as Governor of the
State of Wisconsin,
CITY OF MILWAUKEE,
CITY OF RACINE,
KURT KEZESKE,
SGT. NETHERY, and
R. PRINCE,

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS,
CITY OF RACINE, SGT. NETHERY AND R. PRINCE**

Now come the Defendants, City of Racine, Sgt. Nethery and R. Prince, by their attorneys,
Gunta & Reak, S.C., and answer the Plaintiffs' Complaint as follows:

I. INTRODUCTION

1. Paragraph 1 states a legal conclusion and requires no response.

II. JURISDICTION & VENUE

2. Paragraph 2 states a legal conclusion and requires no response.
3. Admit.

4. Paragraph 4 states a legal conclusion and requires no response.

III. PARTIES

5. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 5, and therefore deny the same.

6. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 6, and therefore deny the same.

7. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 7, and therefore deny the same.

8. Admit.

9. Admit.

10. Admit.

11. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 11, and therefore deny the same.

12. Admit.

13. Admit.

IV. FACTUAL BACKGROUND

14. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 14, and therefore deny the same.

15. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 15, and therefore deny the same.

16. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 16, and therefore deny the same.

17. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 17, and therefore deny the same.

18. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 18, and therefore deny the same.

19. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 19, and therefore deny the same.

20. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 20, and therefore deny the same.

21. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 21, and therefore deny the same.

22. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 22, and therefore deny the same.

23. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 23, and therefore deny the same.

24. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 24, and therefore deny the same.

25. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 25, and therefore deny the same.

26. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 26, and therefore deny the same.

27. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 27, and therefore deny the same.

28. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 28, and therefore deny the same.

29. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 29, and therefore deny the same.

30. Admit.

31. Admit.

32. Admit.

33. Admit.

34. Deny.

35. Admit.

36. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 36, and therefore deny the same.

37. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 37, and therefore deny the same.

38. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 38, and therefore deny the same.

39. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 39, and therefore deny the same.

40. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 40, and therefore deny the same.

41. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 41, and therefore deny the same.

42. Deny.

43. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 43, and therefore deny the same.

44. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 44, and therefore deny the same.

Count 1 - Violations of Fourteenth Amendment

45. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 45, and therefore deny the same.

46. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 46, and therefore deny the same.

47. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 47, and therefore deny the same.

48. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 48, and therefore deny the same.

49. Lack knowledge and information sufficient to form a belief as to the truth or falsity of Paragraph 49, and therefore deny the same.

50. Deny.

51. Deny.

52. Deny.

53. Deny.

54. Deny.

Prayer for Relief

55. Deny.

56. Deny.

57. Deny.

58. Deny.

59. Deny.

60. Deny.

61. Deny.

62. Deny.

AFFIRMATIVE DEFENSES

1. Plaintiffs' complaint against the defendants, City of Racine, Sgt. Nethery and R. Prince, fails to state a claim upon which relief can be granted.

2. If any injuries were suffered by the plaintiffs, all of such injuries and damages were caused through their own conduct, negligence and behavior or through the conduct and behavior of third parties and through no fault on the part of these answering defendants.

3. The individual defendants are entitled to the defense of qualified immunity.

4. Wisconsin Carry, Inc. lacks standing to bring this action.

5. Plaintiffs have failed to mitigate their damages.

6. Plaintiffs' injuries, if any, were caused by their own negligence or other misconduct.

7. The defendants' conduct was privileged.

WHEREFORE, defendants request judgment as follows:

1. Dismissing the complaint of the plaintiffs on its merits, together with costs and disbursements as well as attorneys fees in favor of defendants.

2. For such other further relief as the Court may deem just and equitable and to which the defendants are entitled.

Dated at Milwaukee, Wisconsin, this 29th day of January, 2010.

GUNTA & REAK, S.C.
Attorneys for Defendants City of Racine,
Sgt. Nethery and R. Prince

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